Public Notice

Public Notice Number: 199975335
Date: June 26, 2002
Comments Due: July 26, 2002

US Army Corps of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to retain 4,128 cubic yards (cy) of fill material in waters of the United States as shown in the attached drawings.

APPLICANT: Ms. Cricket Coleman, 3333 Valley Oak Drive, Loveland, Colorado 80538.

LOCATION: The project is located approximately four miles southwest of Elk Mountain within Sections 22, 23, 26 and 27, Township 7 North, Range 86 West, Routt County, Colorado.

PURPOSE: The project would provide vehicular access to the proposed residential homesite and guest house and provide live stock watering, a fishery, recreational amenity and fire suppression for the proposed development.

PROJECT DESCRIPTION: "In its Findings of Violation and Administrative Order for Compliance (Docket No. CWA-8-2000-02), the Environmental Protection Agency (EPA) determined that Ms. Coleman's contractor had discharged dredged or fill material into wetlands adjacent to Farnsworth Creek and realigned a portion of Farnsworth Creek without authorization pursuant to a Clean Water Act Section 404 permit". The unauthorized activities included construction of access roads, pond construction, stream relocation and a topsoil stockpile in wetlands. These activities resulted in approximately 1. 18 acres of impact to Farnsworth creek and adjacent wetlands. These impacts are summarized in Table 1 and shown on Map 4. The EPA "ordered Ms. Coleman to terminate any further unauthorized discharges and to develop a removal and restoration plan for the dredged or fill material. Alternatively, EPA gave Ms. Coleman the option to propose retention of some of the unauthorized dredged or fill material pursuant to a 404 After-the-Fact Permit (ATF)." Ms. Coleman has chosen the ATF permit option and has been directed to develop a removal and restoration plan for the dredged or fill material and submit an AFT permit application for the dredged and fill material to remain in place.

Of the 1.18 acres of impact to waters of the United States 0.85 acre is proposed for restoration. The restoration will involve 0.83 acre of wetlands and 0.02 acre of stream channel restoration. "Restoration will include realigning portions of the access roads to enable removal of fill materials from the impacted wetlands; reconfiguration of the pond embankment to reduce the size of the embankment footprint on wetlands and complete removal of the topsoil stockpile from wetlands. The stream location site has already been returned to its original configuration and prepared for revegetation. The restoration areas will be

revegetated per the specifications in the Habitat Restoration Plan. The proposed restoration areas are shown on Map 9 (enlargements of restoration areas on Maps 9A through 9D)".

The ATF permit application requests authorization to leave in place: (a) the dredged and fill material associated with the construction of one of the access roads affecting 0.0971 acre of wetlands-, and (b) the dredged and fill material associated with the pond that directly affects 0.0529 acre of wetland and 0.0014 acre of stream channel and results in the inundation of 0.178 acre of wetlands, The permanent impacts for which this authorization, is being requested total 0.33 acre of wetlands and 0.001 acre of stream channel. All other areas of wetland and stream channel impacts will be restored in accordance with the Habitat Restoration Plan.

Impact Sites A, B and C are associated with the access road as shown on Map 4. Due to the small amount of impact associated with sites A and B and the possibility of shifting the road alignment at these sites, these impacts have been eliminated and will be restored according to the provisions of the Restoration Plan- Maps 4A and 4B detail these impacts. Impact Site C is located on the south side of the pond as shown on Map 4. This wetland impact site was from road construction activities associated with the access road to the proposed main residence and barn site and also serves as the main access to the entire westerly portion of the property. This impact corresponds to the previously vacated Routt County Road alignment across the property. The previously constructed road was upgraded across a wetland meadow/spring discharge area which is predominately Nebraska Sedge (Carex nebrascensis) and spreading bentgrass (Agrostis stolonifera). Approximately 470 cy of material was discharged into 0.0971 acre of wetlands to upgrade this road. Map 4C details this disturbance.

Impact site D is associated with the proposed pond area as shown on Map 4. The pond construction would provide a dependable water supply for the applicant's livestock as well as providing a permanent water feature and private fishery near the proposed main residence and guest house. Approximately 15,520 cy of alluvial bed material was excavated and 4,115 cy of this material was used in the construction of the embankment for the pond. A total of 1.0206 acres of wetland was impacted by fill or excavation at this site as detailed on Map 4C. A predominately Nebraska sedge and spreading bentgrass wetland plant community type was found at this site. The pond and embankment configuration has been changed due to further geotechnical study. Approximately 427 cubic yards of material will be removed from the embankment footprint which will allow for restoration of 0.09 acre of previous wetland disturbance. In addition there will be 0.7 acre of wetlands restored at this site as shown on Map 6. The wetland impact that would remain at Impact Site D is from the reconfigure pond embankment and inundation of wetlands. The area of impact to wetland form the reconfigure pond embankment is 0.037 acre with 0.178 acre of wetlands being inundated. Total area of wetland impact from the pond site is 0.215 acre.

Impact Site E is associated, with the diversion and waterfall structures on Farnsworth Creek that feed the pond at Impact Site D. The impacts at this site consist of approximately 221 linear feet of stream that was relocated to facilitate the construction of the proposed pond inlet structure as shown on Map 4 and detailed on Map 4C. Approximately 191 linear feet of stream channel has already been restored and only 30 linear feet of the stream will be permanently impacted. Most all of the 0.015 acre impact to Farnsworth Creek are a result of the diversion structure (Figures 15 & 16) that will regulate flows into the pond and the waterfall structure (Figure 1) necessary to prevent down cutting of the stream channel.
Impact Site F is associated with a topsoil stockpile that encroached into a small area of wetland adjacent to Farnsworth Creek. The location of this site is shown on Map 4 and detailed on Map 4D. Approximately 0.0058 acre of wetland was Impacted at this site. This site will be restored completely in accordance with the Restoration Plan

ALTERNATIVES: Due to the existing alignment created by Routt County Road and Bridge Department the applicant and contractor thought it was best to maintain the existing alignment and not create a new disturbance. However, Routt County requires that private roads satisfy county standards which precipitated the current upgrades. It appears that an access road following the previous County alignment could not of entirely avoided wetlands.

The applicant evaluated five alternative sites for the pond. The first alternative was to construct the pond on the drainage swale located to the north of the existing site. This site was determined to be impracticable because of the limited and undependable surface water supply. A second alternative was evaluated in the bottom of the drainage swale midway between the proposed main residence and the guest house. This site was determined to be infeasible since the site was too narrow to accommodate the pond and the main access road. A third alternative was considered to the southwest of the existing pond site near the spring area west of the topsoil stockpile site. This alternative was dismissed because it would not of been visible or easily accessible from the main residence. This site would also cutoff access to all other portions of the property to the west and southwest. A fourth alternative was looked at in the open area associated with the floodplain of Farnsworth Creek to the west of the existing pond. This site was dismissed due to the extensive amount of cut and fill needed to construct the pond. The fifth alternative was the current pond site.

AREA DESCRIPTION: The project site is located along Farnsworth Creek, a tributary of the Elk River which is a tributary of the Yampa River. The area is in unincorporated Routt County approximately 12 miles northwest of the Town of Steamboat Springs. The site is located on a 300-acre parcel of land in the Farnsworth Creek Valley. There is a moderate slope in the valley which ranges from 2 percent to 16 percent with an average of 8 percent. "Two wetland types occur on the site. The dominant wetland type consists of a spreading bentgrass wetland community and a second wetland type consists of a sedge wetland plant community. These wetland types can largely be characterized as consisting of wet meadow and riparian wetlands, Wet meadow wetlands occupy low-lying and gently sloping topographies near drainage channels and appear to correspond almost totally to old abandoned beaver dam locations. Riparian wetlands consists of wetlands which are encountered adjacent to Farnsworth Creek and the old beaver flow channels of the area.

ADDITIONAL INFORMATION: All permanent impacts to wetlands will be compensated at a ratio of 1.5: 1. All temporary impacts to wetlands will be compensated at a ratio of 0.5:1. The objective of the compensatory wetland mitigation plan is to create at least 0.91 acres of wetlands that will offset the temporary and permanent impacts to wetlands. A total of 0.91 acres of compensatory mitigation will be created at 11 wetland mitigation sites as shown on Map 8. A typical wetland mitigation excavation cross-section and concept sketch is shown on Figures 11 and 12. The combined area of the 11 sites is about 1.25 acres, which will be sufficient to enable the creation of 0.91 acre of wetlands.

The applicant has requested water quality certification from the Colorado Department of Public Health and Environment, Water Quality Control Division in accordance with Section 401 of the Clean Water Act. Written comments on water quality certification should be submitted to Mr. Andrew Ross, Planning and Standards Section, Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80222-1530, on or before **July 26, 2002**.

The Colorado Department of Public Health and Environment, Water Quality Control Division also reviews each project with respect to the anti-degradation provision in state regulations. For further information regarding anti-degradation provision, please contact Mr. Ross at the Colorado Department of Public Health and Environment Water Quality Control Division, telephone (303) 692-3540.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are no places either listed or recommended as eligible which would be affected.

This activity would not affect any threatened or endangered species or their critical habitat District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary investigation.

Interested parties are invited to submit written comments on or before **July 26, 2002.** Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may he relevant to the proposal will be considered including the cumulative effects thereof, among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

For activities involving 404 discharges, a permit will be denied if the discharge does not comply with the Environmental Protection Agency's Section 404(b) (1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public, Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments on this permit application should be submitted to the District Engineer at the address listed above. Please furnish a copy of your written comments to the attention of Ken Jacobson, Grand Junction Regulatory Office, U.S. Army Engineer District, Sacramento, Wayne N. Aspinall Federal Building, 402 Rood Ave, Room 143, Grand Junction, CO 81501-2563. For further information, please contact Mr. Jacobson at telephone number 970-243-1199 extension 11 or email ken.jacobson@usace.army.mil.

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

Enclosures: 21 Drawings